

WYATT & ASSOCIATES

EMPLOYMENT LAW, HR SOLUTIONS

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VIA ECF

June 20, 2023

The Hon. Vernon S. Broderick
United States District Judge Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Dear Judge Broderick:

The Plaintiff submits this letter in response to your June 6, 2023 Order asking for factual support for the requested amount of attorneys' fees pursuant to *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 200 (2d Circuit). The attorneys' fees in the settlement are \$28,333 which represents one third of the total amount of the settlement (the total settlement is \$85,000). Plaintiff's basis for this amount was that she hired her attorneys on a contingency basis.

Contingency fees are deemed appropriate in FLSA cases in this circuit. *See, eg., Struogo ex rel. Brazilian Equity Fund, Inc. v. Bassini*, 258 F. Supp. 2d 254, 261-261 (S.D.N.Y. 2008); *In re Blech Sec. Litig.*, 2002 U.S. Dist. LEXIS 23170 (S.D.N.Y. Dec. 4, 2002); *Calle v. Elite Specialty Coatings Plus, Inc.*, 2014 U.S. Dist. LEXIS 164069 (E.D.N.Y. Nov. 19, 2014); and *Palacio v. E*Trade Fin. Corp.* 2012 U.S. Dist. Lexis 88019 (S.D.N.Y. June 22, 2012).

Additionally, a one-third contingency fee is "commonly accepted in the Second Circuit in FLSA cases." *Najera v. Royal Bedding Co., LLC*, 2015 U.S. Dist. LEXIS 71877, at *7 (E.D.N.Y. June 3, 2015) (collecting cases); *see, e.g. Gaspar v. Pers. Touch Moving, Inc.*, 2015 U.S. Dist. LEXIS 162243, at *5 (S.D.N.Y. Dec. 3, 2015) ("Fee awards representing one third of the total recovery are common in this District"); *Calle v. Elite Specialty Coatings Plus, Inc.*, 2014 U.S.

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Dist. LEXIS 164069, at *9 (E.D.N.Y. Nov. 19, 2014) ("A one-third contingency fee is a commonly accepted fee in this Circuit."); *Rangel v. 639 Grand St. Meat & Produce Corp.*, 2013 U.S. Dist. LEXIS 134207, at *4 (E.D.N.Y. Sept. 19, 2013) (observing that in FLSA cases, district courts in the Second Circuit routinely approve of fees that amount to one-third of the total recovery).

Accordingly, Ms. Adams respectfully asks that this Court APPROVE the settlement agreement.

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Claudia Adams

By her attorneys

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Date: June 20, 2023

By: /s/Timothy Brock

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